

FREDERICK G. HOLL
and
HARRY W. OBORNE

IBLA 74-322

Decided December 6, 1974

Appeal from decisions of the Colorado State Office, Bureau of Land Management, rejecting oil and gas lease offers, C 20711 through C 20714.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Generally

An offer to lease acquired lands for oil and gas made on forms for leasing public lands must be rejected.

2. Acquired Lands -- Mineral Leasing Act for Acquired Lands: Lands Subject to -- Oil and Gas Leases: Lands Subject to

Acquired lands set apart for military or naval purposes are expressly excluded from mineral leasing under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1970).

APPEARANCES: Frederick G. Holl, pro se; Harry W. Osborne, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Frederick G. Holl and Harry W. Osborne have appealed from decisions of the Colorado State Office, Bureau of Land Management, dated May 8, 1974, rejecting their four noncompetitive public lands offers, C 20711 through C 20714, to lease for oil and gas certain tracts of land in Tps. 15, 16 and 17 S., R. 66 W., 6th P.M., El Paso

County, Colorado. The reasons for rejection were, in effect, that the United States does not own the minerals in any of the lands in the offers.

Appellants in their statement of reasons contend that the records of the County Clerk and Recorder of El Paso County, Colorado, "show in Book 985, at pages 336 and 337, that the 'full fee simple absolute title' to the lands covered by the offers belongs to the United States of America, and that since that entry there have been no entries in the records of El Paso County, Colorado, affecting title to the lands in question."

The Colorado State Office letter transmitting appellants' notice of appeal to the Board of Land Appeals contains the statement: "Upon checking the Colorado State Map, it is noted that the lands in these applications are within the Fort Carson Military Reservation."

Furthermore, additional information from the county records discloses that the lands in the offers were reacquired by the United States by a Decree and Declaration of Taking, #11471, District Court of the United States for the District of Colorado, dated July 7, 1942, filed for record on July 15, 1942, in Book 985 at pages 336 and 337. Accordingly, such lands are acquired lands of the United States. These lands are within the exterior boundaries of Fort Carson Military Reservation under the jurisdiction of the Department of the Army.

[1] According to the Bureau of Land Management records, all the lands described in the subject offers had been patented without reservation of minerals to the United States. Appellants' offers to lease for oil and gas were on forms for the leasing of public lands. Since the lands had been patented without reservation of minerals to the United States they were no longer public lands and could not be leased under the Mineral Leasing Act of 1920, 30 U.S.C. § 181 et seq. (1970). For this reason the rejection of the offers was proper. 43 CFR 3111.1-2(a)(1) and (4); see Texas Company, A-27021 (August 10, 1954).

[2] Acquired lands set apart for military or naval purposes are specifically excluded from mineral leasing by Section 3 of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1970), and regulation 43 CFR 3101.2-1(f).

Consequently, even if appellants were to file offers on forms used for the leasing for oil and gas of acquired lands such offers would have to be rejected for the reason that acquired lands within a military reservation are excluded from leasing under the Mineral Leasing Act for Acquired Lands, supra. J. W. McTiernan, 14 IBLA 369 (1974); Elgin A. McKenna, 74 I.D. 133, 137 (1967), aff'd, McKenna v. Udall, 418 F.2d 1171 (D.C. Cir. 1969).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed as modified.

Anne Poindexter Lewis
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joan B. Thompson
Administrative Judge

